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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,528	07/23/2003	Dirk Heinrich	233810US0	6667
22850	7590	07/06/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			LE, HOA T	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			1773	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,528

Applicant(s)

HEINRICH ET AL.

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>Dec. 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. Upon reconsideration, claim 8 is hereby rejoined and examined along with the elected claims 1-7 and 9.

3. Claims 10-17 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant did not argue to examiner's reply to the traversal in the last office action. It's assumed that Applicant agreed with the Examiner on this issue.

Claim Rejections - 35 USC § 102

4. Claims 1-5,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mumcu (US 4,687,837).

Claim 1: Mumcu teaches polyamide having an average grain size from 30 to 70 microns (col. 4, lines 54-57). Table at col. 6, lines 25-30 shows a median grain size of approximately 73 μm , which falls within the claimed median grain size, based on the following calculation:

$$[(1.2\% \times 70) + (48\% \times 90) + (99\% \times 110) + (100\% \times 130)] / 4 = (0.84 + 43.2 + 108.9 + 140) / 4 = 73$$

The table shows zero wt% of fines less than 60 μm , thus content of fines of less than 5 μm is below 1 wt%.

The particles are reported to be spherical (col. 3, line 1); therefore, at least 75% of all three spatial axes have the same dimensions to within 10%.

Claim 2: See above.

Claims 3-5: See col. 3, lines 45-49 and col. 5, line 66.

Claim 8: See col. 5, lines 19-22.

Claim 9: See col. 6, lines 25-30.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mumcu (US 4,687,837) as applied to claims 1-5, 8 and 9 above, and further in view of either Suzuki (US 5,139,821) or Araki et al (US 6,777,488).

Mumcu teaches the claimed polyamide as discussed above. Mumcu does not explicitly report regulators having terminal groups as claimed. However, Suzuki and Araki each teach polyamide containing therein regulators having terminal amino and carboxyl groups within the claimed ratio. See Suzuki, col. 3, lines 1-4, and Araki col. 2, lines 12-20. It would have been obvious for one having ordinary skill in the art to incorporate regulators as claimed because it's disclosed that such ratio improves disperse power of the polyamide particles in a dispersion (see Araki, col. 2, lines 25-31) and promotes stable polymerization (see Suzuki, col. 3, lines 1-20).

7. Applicant's arguments with respect to claims 1-7 and 9 have been considered but are moot in view of the new ground(s) of rejection set forth above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



H. T. Le
Primary Examiner
Art Unit 1773

June 26, 2006